

# Marshall Circuit Court

**FILED**

IN OPEN COURT

Cause No. CTC 86-117  
CTC 86-200

(Date) March 31, 1989

APR 03 1989

Title of Cause David H. Spaulding, Plaintiff  
v.  
Aaper Alcohol and Chemical Co., et al., Defendants  
*Raymond Spaulding*  
CLERK MARSHALL CIRCUIT COURT

Daniel J. Kois, Plaintiff  
v.  
A.E Staley Manufacturing Co., et al., Defendants

Come now Plaintiffs, by Counsel, and file:

Petition for Extension of Time to File Exhibit Binders; *Allowed to 4-14-89.*  
Supplemental Affidavit of Plaintiff (David H. Spaulding);  
Affidavit of Susan M. Daum, M.D. (for plaintiff Spaulding);  
Affidavit of Susan M. Daum, M.D. (for plaintiff Kois);  
Certificate of Service.

Minute  
Entry

*MJC*

Judge Marshall Circuit Court

Name of Mov-  
ing Counsel

NEWBY, LEWIS, KAMINSKI & JONES

By: *Gene M. Jones*  
Gene M. Jones

Name Opposing  
Counsel (if any)

916 Lincolnway, P.O. Box 1816  
LaPorte, Indiana 46350-1816  
Telephone: (219) 362-1577

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARSHALL )

IN THE MARSHALL CIRCUIT COURT

DANIEL J. KOIS, )  
Plaintiff, )  
 )  
v. )  
 )  
A.E. STALEY )  
MANUFACTURING COMPANY; )  
et Al., )  
Defendants. )

CAUSE NO. **FILED** 86-200  
IN OPEN COURT

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*Susan M. Daum*

AFFIDAVIT OF SUSAN M. DAUM, M.D.  
CLERK MARSHALL CIRCUIT COURT

Susan M. Daum, M.D. now affirms as follows:

1. I am an adult, I have personal knowledge of the matters set forth in this Affidavit, and I am competent to testify as an expert witness concerning the medical and toxicological effects of chemicals on the human body. My background education, training, and experience gives me personal knowledge of the chemical industry insofar as it relates to the health of patients.

2. My Curriculum Vitae (consisting of 3 pages) is attached hereto labeled Exhibit "A", and incorporated herein by reference, and the statements and contents of the Curriculum Vitae are true and correct.

3. The following opinions are based upon my personal investigation, upon my education, training and experience, upon scientific and medical literature, upon the medical records of the plaintiff, and upon the Material Safety Data Sheets which describe hazardous conditions and which were provided by defendants through discovery in this matter. This information, along with the medical records of patients "AAA", "BBB" and "CCC", are of the type normally found by environmental physicians to be reliable to the extent of the information included therein.

a. At the time the defendants supplied the chemicals listed in Exhibit "B", to International Bakers Services, Inc. there was a chemical industry standard on behalf of a supplier (manufacturer, formulator, repackager and/or transshipper) to warn of a product's foreseeable dangers and the precautionary measures to be taken to avoid or minimize harm if exposed. Further, this duty of the supplier to provide reasonable warnings includes creating a new warning, if appropriate, and the supplier cannot rely on the warning of a manufacturer without taking reasonable steps to determine that the manufacturer's warning is adequate. In other words, a supplier may not simply send on the warning, if any, of the manufacturer to the ultimate consumer without determining that the warning is reasonable.

b. It was reasonably foreseeable by the defendants as suppliers of the products listed in Exhibit "B" that these chemicals would be mixed by employees (Blenders) of International Bakers Services, Inc. or any other manufacturer in the food flavor industry, with other chemicals from other suppliers among which there would be other respiratory irritants and dust.

c. It was reasonably foreseeable by the defendants that the plaintiff, as an employee of International Bakers Services, Inc. was one of the persons who might be expected to use the chemicals listed on Exhibit "B".

d. It was reasonably foreseeable by the defendants that the plaintiff, as an employee of International Bakers Services, Inc. might be expected to use the chemicals listed in Exhibit "B" as he did use them.

e. It was reasonably foreseeable by the defendants that each of these chemicals could cause inhalation injury, and it was



March 28, 1988

Name: Susan M. Daum, M.D  
130 Kinderkamack Rd  
River Edge, New Jersey 07661

Date of Birth: June 18, 1941

**Education:**

College: Cornell University College of Arts and Sciences,  
Ithaca, New York 1959-1963, Bachelor of Arts (Chemistry)

Cornell University College of Medicine, New York, N.Y.  
1963-1967, Doctor of Medicine (M.D.)

Post Graduate Training

Internship: Mount Sinai Hospital, New York, New York 1967-1968 Medical Intern.

Residency: Mount Sinai Hospital, New York, New York 1968-1969, 1970-1971  
Medical Residency.

Fellowship: Mount Sinai Hospital, New York, New York NIH Training Fellow in  
Hematology 1969-1970.

Professional Employment and Hospital Appointments

**Hospital Appointments:**

Mount Sinai Medical Center, NYC 1971-1972 Clinical Assistant Physician,  
Out-patient Department,  
Medical Division.

Mount Sinai Medical Center, NYC 1971-1974 Clinical Assistant for Community  
Medicine.

Mount Sinai Medical Center, NYC 1974-pres. Senior Clinical Assistant for  
Community Medicine.

Barnert Memorial Hospital, N.J. 1979-pres. Courtesy Staff Physician.

Montefiore Hospital, Bronx, N.Y. 1981-pres. Senior Clinical Consultant,  
Department of Social Medicine.  
1984-pres. Adjunct. Attending.

Academic Appointments:

Mount Sinai Medical Center 1969-1970 Assistant, Department of Medicine  
of the City University of N.Y. (Hematology).

Mount Sinai Medical Center 1970-1971 Instructor, Department of Medicine.  
of the City University of N.Y.

Mount Sinai Medical Center 1971-1973 Clinical Associate, Department of  
of the City University of N.Y. Medicine.

Mount Sinai Medical Center of the City University of N.Y.	1973-1976	Associate, Department of Community Medicine (Environmental Sciences Laboratory).
Mount Sinai Medical Center of the City University of N.Y.	1981-1983	Lecturer, Associate Clinical.
Mount Sinai Medical Center of the City University of N.Y.	1983-pres.	Assistant Clinical Professor Department of Community Medicine (Environmental Sciences Laboratory).
Albert Einstein College of Medicine	1980-1981	Assistant Clinical Professor, Community Health and Social Medicine.
St. Joseph's Hospital and Medical Center	1986-pres	Clinical Preceptor Occupational Health - Residency program in Family Practice.

Private Practice

Environmental and Occupational Medicine, 1979-pres.

Board Certification:

American Board of Internal Medicine, 1972.  
 American Board of Preventive Medicine (Occupational Medicine), 1983.  
 "B" Reader for chest x-rays of pneumoconioses, National Institutes of  
 Occupational Safety and Health, 1982. Recertification, 1986.  
 Fellow of the American College of Chest Physicians, 1982.

Professional Society Memberships:

New York Academy of Sciences.  
 American Association for the Advancement of Science.  
 American Public Health Association.  
 The Medical Society of New Jersey.  
 Bergen County Medical Society.

Other Professional Activities:

Consultation for the development of criteria documents, National Institute of  
 Occupational Safety and Health (Phosphoric Acid Document, Acrolein Document,  
 Sulphuric Acid Document, Working Group on Reproductive Hazards).

Consultant to the National Institute of Occupational Safety and Health, health  
 hazard evaluation section: Health Hazard evaluations at Rager Tool Company,  
 Platt Chemical Col., Lincolndale School (document resulting from these  
 evaluations available on request).

Consultation: McGraw-Hill, Inc. Clinical diagnosis of allergies, secondary to indoor air pollution.

Consultation: Invited Witness, State Assembly of New York, compensation of disease with long latency periods.

Consultation: Asbestos Restoration Company, Asbestosis Surveillance 1984 to 1986.

Consultation: Comus International, Mercury monitoring, 1985 to 1986.

Consultation: Environ Corporation, Hazardous waste exposures, 1986 to present.

Acetaldehyde  
Acetic Acid, Glacial  
Acetoin (98/100%) (Acetyl Methyl Carbinol)  
Acetyl Propionyl (2,3 Pentanedione)  
Aldehyde C-8 (Octanal)  
Aldehyde C-10 (Decanal)  
Aldehyde C-18 (Gamma Nonalactone)  
Amyl Alcohol  
Anisic Aldehyde  
Benzaldehyde  
Benzodihydropyrone (Dihydrocoumarin)  
Butyl Butyryl Lactate  
Butyric Acid  
Caproic Acid  
Caprylic Acid  
Cinnamic Aldehyde  
Citral  
Delta Decalactone  
Delta Dodecalactone  
Diacetyl (Spray Dried)  
Diacetyl  
Ethyl Acetate 99%  
Ethyl Butyrate  
Ethyl Formate  
Ethyl Vanillin  
Gamma Dodecalactone  
Gamma octa lactone  
Heliotropine  
(Iso) Amyl Acetate Blend  
Iso Valeric-Acid  
Isoamyl butyrate  
Lactic Acid  
Laevo linalool  
Leaf Alcohol (CIS-3-Hexen-1-OL)  
Linalool  
Linalyl Acetate  
Methyl Cyclopentenolone (Maple Lactone)  
Oil Bitter Almond  
Oil Guaiacwood  
Oil Lemon  
Propenyl Guaethol (vanitrope)  
Terpineol (Super)  
Trans 2-Hexenoic Acid  
2-Hexanoic Acid  
Vanillin  
Veratraldehyde

APR 03 1989

CERTIFICATE OF SERVICE

*Ray J. Spence*  
CLERK MARSHALL CIRCUIT COURT

I certify that on March 31, 1989, service of a true and complete copy of the (1) Petition for Extension of Time to File Exhibit Binders, (2) Supplemental Affidavit of Plaintiff, David H. Spaulding, (3) Affidavit of Susan M. Daum, M.D. (for plaintiff Spaulding), (4) Affidavit of Susan M. Daum, M.D. (for plaintiff Daniel J. Kois), (5) Minute Sheet, were made upon each party or attorney of record herein listed below by depositing the same in the United States mail in envelopes properly addressed to each of them and with sufficient postage affixed.

Terence M. Austgen, Esq.  
Singleton, Levy, Crist & Johnson  
9013 Indianapolis Boulevard  
Highland, Indiana 46322

Patrick J. Higgins, Jr., Esq.  
Feeney, Stratigos & Higgins  
305 JMS Building  
South Bend, Indiana 46601

Scott L. Starr, Esq.  
Walker Starr Austen & Tribbett  
201 South 3rd Street  
P.O. Box 120  
Logansport, Indiana 46947

John R. Obenchain, Esq.  
1800 Valley American Bank Bldg.  
P.O. Box 4577  
South Bend, Indiana 46634

Dale E. Custer, Esq. and  
Pamela P. Kosenka, Esq.  
Stults, Custer, Kutansky  
& McClean  
3637 Grant Street  
P.O. Box 15050  
Gary, Indiana 46409

James W. Riley, Jr., Esq. and  
Mary K. Reeder, Esq.  
Riley, Bennett & Egloff  
One American Square, 18th Floor  
Box 82035  
Indianapolis, Indiana 46282-0003

Lewis C. Laderer, Jr. Esq.

John E. Doran, Esq. and  
Don G. Blackmond, Esq.  
Doran, Blackmond, Ready,  
Hamilton & Williams  
515 First Bank Building  
205 West Jefferson Boulevard  
P.O. Box 2979  
South Bend, Indiana 46680

Leonard E. Eilbacher, Esq.  
and Carla J. Baird, Esq.  
Hunt, Suedhoff, Borrer &  
Eilbacher  
900 Paine Webber Bldg.  
803 South Calhoun Street  
Fort Wayne, Indiana 46802

John A. Young, Esq.  
Mark S. Alderfer, Esq.  
Young, Cochran & Reese  
36 South Pennsylvania Street  
630 Century Building  
Indianapolis, Indiana 46204

James Byron, Esq.  
William G. Lavery, Esq.  
Thorne, Grodnik & Ransel  
228 West High Street  
Elkhart, Indiana 46516-3176

Bruce P. Clark, Esq.  
622 Ridge Road  
Munster, Indiana 46321

Mark E. Schmidtke, Esq.  
Hoepfner, Wagner & Evans  
P.O. Box 2357